
IMPORTANT!

BE SURE TO READ

The Special Committee ordered by the 15th Constitutional Convention to prepare and distribute this pamphlet consists of:

Richard F. Upton, Concord, President of the Convention.

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William L. Phinney, Goffstown, Chairman,

William S. Lord, Gilford, Vice Chairman,

Committee on Time and Mode of Amending Constitution.

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Elmer Bourque, Manchester, Chairman,

Winslow Osborne, Concord, Vice Chairman,

Committee on Form and Style of Amending Constitution.



VOTERS' GUIDE

TO

PROPOSED AMENDMENTS
TO CONSTITUTION OF
THE STATE OF NEW HAMPSHIRE

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To Appear on a Special Ballot at Election
on November 8, 1966

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Recommended by the
15th Constitutional Convention
at its sessions of May 13-
June 10, and July 8, 1964

TO THE VOTERS OF NEW HAMPSHIRE:

This pamphlet was ordered, prepared and distributed, at the expense of the State, by the Convention to Revise the Constitution, which met May 13-June 10 and July 8, 1964.

Its purpose is to help you, when you vote on November 8, 1966, to understand seven proposed amendments to the New Hampshire Constitution which were approved by the Convention.

PLEASE REMEMBER: In order to amend the Constitution, two-thirds of the people voting on an amendment must vote Yes. A simple majority will not amend the Constitution. Also, even if enough voters vote Yes so as to adopt any amendment, it will not be effective, in some cases, until the Legislature passes one or more laws for that purpose.

At the November, 1966 Election you will receive a separate, non-partisan ballot on which you will be asked to answer seven questions, which summarize these proposed amendments. You may answer by voting Yes or No, as you choose. These seven questions and the Convention's authorized explanation of each amendment are as follows:

QUESTION NO. 1

1. Are you in favor of protecting the Supreme Court and the Superior Court from possible political interference by establishing them as constitutional courts? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, the Supreme Court and the Superior Court are not absolutely free and independent of the possibility of political interference or other tampering based upon ulterior motives. The legislature, by simply passing a law abolishing either court, may legislate out of office all the judges of that court. This has actually happened on six different occasions in the State's history.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 1, the Supreme Court, which is the court of appeals, and the Superior Court, which is the general court of trials, will be established as independent, constitutional courts and freed of the threat of legislative interference through the arbitrary device of abolishing the court. The independence and integrity of these courts are essential to protect our individual liberties and rights and to

provide a check and balance on the powers of the legislature and the executive department.

QUESTION NO. 2

2. Are you in favor of limiting the constitutional right to a roll call on any question in each house of the legislature to a member whose motion therefor has been duly seconded? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, any one legislator may demand a roll call on any question in either house of the legislature. It takes 25 minutes to conduct a roll call in the House of Representatives. A single member, by abuse of the power to demand a roll call, can unreasonably delay the proceedings of the House by requiring successive roll calls on every vote taken. The Convention found that this power had been sufficiently abused in the past to justify this amendment.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 2, a demand for a roll call by a single legislator will have to be duly seconded, and it will be possible for each house of legislature, by rule, to define when such a demand has been "duly seconded". When the occasion requires it, it will be no problem to have the demand duly seconded, but it will no longer be possible for a single member capriciously to carry on a one-man "filibuster" by requiring successive roll calls on every vote taken. The U. S. Congress and nearly all state legislatures have similar rules, requiring that a request of a roll call must be seconded in some fashion. This amendment will not take away the present right of any member to have his negative vote and the reasons therefor, entered in the journal.

QUESTION NO. 3

3. Are you in favor of an amendment (a) forbidding the legislature to change the charter or form of government of any particular city or town without the approval of the voters thereof; and (b) allowing the legislature by general law to authorize cities and towns to adopt or amend their charters or form of government in any way not in conflict with general law, such charters or amendments to be effective only upon the approval of the voters of each city or town? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, New Hampshire is not a "home-rule" state. All powers of local government are derived from the legislature, and all amendments to city charters must be passed by the legislature. Much time of the legislature is devoted to matters of purely local concern, and sometimes such local laws are enacted without providing for a local referendum thereon.

IF THE AMENDMENT IS ADOPTED by enough Yes votes on Question No. 3, "home-rule" will be increased. No legislative act which changes the charter or form of government of a particular city or town could take effect until it had been approved by popular vote on a referendum conducted in such city or town. This provision will not require a referendum on general legislation which affects alike all cities and towns, or all cities or towns in the same class. Nor will this provision affect special acts which do not literally change the charter or form of government of a city or town. The amendment would also empower the legislature to delegate by general law to cities and towns the power to adopt or amend their charters or forms of government, in conformity with general law, if approved by a popular vote at a local referendum thereon. This provision could eventually lighten the workload of the legislature in this field.

QUESTION NO. 4

4. Are you in favor of the proposed amendment to Article 29 reducing the residence requirement for a state senator (and also a councilor) from seven to four years? YES ☐ NO ☐

This question is self-explanatory. The present requirement of seven years' residence in the state for service in the state senate and the executive council, was believed by the Convention to be unduly restrictive in these modern times, when the Nation's population is more mobile and our State is rapidly acquiring many new residents with much ability to contribute to the public service. The proposed four-year residence requirement for service in the state senate and the executive council is thought to be more in keeping with present day conditions, yet long enough to discourage "fly-by-night" officeholding. Many other States have adopted similar provisions in recent years.

QUESTION NO. 5

5. Are you in favor of amending the Constitution to clarify and reinforce the executive powers of the governor by providing that he shall be vested with the executive power, shall be responsible for faithful execution of the laws and may by appropriate legal action enforce constitutional and legislative mandates within the executive branch? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, the authority of the governor to manage the executive branch depends more upon implication than upon power expressly granted. The governor might be likened to a chairman of the board of directors. It is sometimes difficult for him to require all the officers and departments in the executive branch to act as a united administration in the execution of the laws and in obedience to the constitution; because his authority as chief executive is not clearly spelled out anywhere.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 5, the governor will have the necessary management tools properly to do his job of chief executive within the executive branch, and, having such power, the people will properly be able to hold him responsible for misuse of the power or failure to exercise it on appropriate occasions. The amendment will not permit executive interference with the legislative or judicial branches.

QUESTION NO. 6

6. Are you in favor of an amendment guaranteeing to any person held to answer in any crime or offense punishable by deprivation of liberty, the right to counsel at the expense of the state if need is shown, which right he may waive only after the matter has been thoroughly explained by the court? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, the United States Constitution, as interpreted by the Supreme Court, requires of the several states that persons accused of crime which is a felony (defined as a state prison offense), who are so poor as to be unable to pay a lawyer for their defense, must be provided with a lawyer at public expense. It is not yet clear how far this federally-guaranteed benefit must be extended by the states to persons accused of lesser crimes

(called misdemeanors). The New Hampshire constitution contains no similar provision, although a present New Hampshire law provides a lawyer at public expense for all indigent persons accused of any crime more serious than a "petty offense", defined as an offense punishable by not over six months in jail.

IF THE AMENDMENT IS ADOPTED by enough Yes votes on Question No. 6, the legislature will be required to extend the present state law so as to provide a lawyer at public expense for all indigent persons accused of a crime which carries any penalty of imprisonment, no matter how short the term. The present exemption of "petty offenses" would be invalidated, and the benefit of counsel for the indigent would be extended to a wide variety of lesser crimes and offenses, punishable by a jail sentence of less than six months. The additional cost would have to be paid by the state rather than by the counties. The right could be waived by the accused but only after thorough explanation by the judge.

QUESTION NO. 7

7. Are you in favor of an amendment limiting the power of the Governor and Council to remove any commissioned officer upon the address of both houses of the legislature to instances where reasonable cause exists, stated fully and substantially in the address, which cause shall not be sufficient ground for impeachment, and provided that no officer shall be so removed unless he shall have had an opportunity to be heard in his defense by a joint committee of both houses?
- YES ☐
- NO ☐

NOW — AT THE PRESENT TIME, the legislature with the approval of the governor and council may summarily remove from office any judge or other appointed public officer, without a hearing and without stating any reason. This is called the power to "address out of office". The power has been much abused in past history. Sixty-five judges and numerous other public officers have so far been removed by this device, in nearly all cases solely for partisan political reasons.

IF THE AMENDMENT IS ADOPTED by a sufficient number of Yes votes on Question No. 7, the power to address out of office can only be used where reasonable cause is found, which must be fully stated

in writing, and the accused public officer must first be given a public hearing by a joint legislative committee. The power to remove by address would be limited to reasonable causes other than bribery, corruption, malpractice or maladministration in office. As to these four latter causes, the constitutional method of removal would be by the state senate after a full trial on impeachment charges voted by the house of representatives. The statutory powers of the governor, or of the governor and council, to remove certain public officers, as provided in such statutes, would not be limited by this amendment.

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When in your voting booth on November 8, 1966, please vote as you believe on these Constitutional Amendments, but **BE SURE TO VOTE!**

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ADDITIONAL
CONSTITUTIONAL AMENDMENT
RECOMMENDED BY 1965 SESSION
OF GENERAL COURT

In addition to the amendments to the Constitution proposed by the Constitutional Convention of 1964, one further amendment originated in the 1965 session of the legislature.

On the November ballot as Question No. 8 will be the following:

QUESTION NO. 8

8. Do you favor having the legislature meet in two annual sessions with a total limit of ninety days but no limit on time of adjournment? **YES** ☐ **NO** ☐

AT THE PRESENT TIME the legislature meets once every two years for a period of ninety days and may not under the terms of the present constitution adjourn for more than five days.

IF THIS AMENDMENT IS ADOPTED, it would provide for the legislature meeting each year to consider laws in the public interest and particularly to appropriate on an annual basis (instead of the present two-year basis) the amounts of money to be used for running the state departments. The legislature will continue to meet

no more than ninety days in the two-year period. It would, however, be divided possibly as the Annual Sessions Committee will recommend 45 days each year.

The last phrase of the question "no limit on the time of adjournment" simply removes the provision that the legislature cannot adjourn for more than 5 days. Elimination of this obsolete provision will permit the legislature to adjourn as needed and not have to meet and incur the expense when no work needs to be done.

ANNUAL SESSIONS COMMITTEE:

Senator Robert English

Representative Malcolm J. Stevenson

Representative Marshall Cobleigh

Representative Robert E. Raiche

Representative Leo L. Dion

Senator Richard D. Riley

Representative Donald H. Spitzli